



NATIONAL FLOOD INSURANCE PROGRAM

Bureau and Statistical Agent

W-02085

MEMORANDUM TO: Write Your Own (WYO) Principal Coordinators and
NFIP Servicing Agent

FROM: WYO Clearinghouse

DATE: December 18, 2002

SUBJECT: Frequently Asked Questions on the NFIP Reauthorization

Attached is a list of Frequently Asked Questions on the NFIP Reauthorization, that will assist you in responding to the inquiries you may be getting from your agents and your policyholders. This memo also includes a copy of the most Frequently Asked Questions on the NFIP Reauthorization for consumers, which has been posted on the NFIP website.

If you have any questions or need additional information, please contact your Program Coordinator.

Attachments

cc: Vendors, IBHS, WYO Standards, FIPNC, WYO Marketing Committee,
Government Technical Monitor

Suggested Routing: Marketing, Underwriting, Claims

THESE ARE INITIAL FREQUENTLY ASKED QUESTIONS (FAQ). THIS LIST MAY BE EXPANDED.

FAQs – Write Your Own Companies

1. On November 25, 2002, FEMA instructed the National Flood Insurance Program (NFIP) Servicing Agent to hold all premium payments received on and after January 1, 2003, for renewals, new applications, etc., in abeyance. Additional instructions were issued on December 12, 2002. Do those instructions apply to the Write Your Own (WYO) companies as well?

A. FEMA encourages the WYO companies to follow the procedures contained the November 25 and December 12, 2002 memos.

2. How likely is it that Congress will act quickly to reauthorize the program?

A. We have been in frequent contact with Members of Congress and their staffs regarding the NFIP's reauthorization. It is clear from our meetings and discussions that Congress wishes to remedy the lapse in authority for the NFIP shortly after the 108th Congress convenes on January 7, 2003. Representative Michael G. Oxley and Representative Barney Frank have issued a press release announcing that they will introduce legislation to reauthorize the NFIP shortly after the 108th Congress convenes.

3. How likely is it that Congress will make the reauthorization retroactive to January 1, 2003?

A. We believe Congress will make the reauthorization retroactive to January 1, 2003. We base this belief in large part on how Congress has treated lapses in reauthorization in the past. There have been several lapses in authority for the NFIP in the past, and, in each of those lapses that ranged from days to several weeks, Congress has reauthorized the NFIP retroactively.

4. Should the WYO company hold or deposit premiums received?

A. We suggest that companies physically hold the payment. If companies are unable to hold the funds and must deposit them due to electronic funds transfer or for other reasons, then deposits should go to the restricted account.

5. If a premium is received during the hiatus for new business and renewals, how should claims be handled for losses that occur during the hiatus and before Congress reauthorizes the NFIP?

A. We have suggested that the WYO companies proceed with the investigation of a claim up to the point of claim payment under a non-waiver of the company's right to deny the claim if the program is not reauthorized retroactively.

6. Will FEMA issue an extension of the proof of loss requirement for claims?

A. A proof of loss is required within 60 days of the loss. If claims are investigated under a non-waiver agreement, the proof of loss should not be delayed. If we need to, though, we will grant individual waivers. If there is a major event during the hiatus, we would certainly consider a blanket extension of the time to file a proof of loss. We have issued such blanket extensions after hurricanes and other major events.

7. Do companies have authorization to issue advances and claim payments for policies for which premiums were received on or after January 1, 2003?

A. Not from Federal funds—from either the collected premium or the Letter of Credit—until Congress retroactively extends the authority to enter into new contracts for flood insurance.

8. What are the recovery procedures so that audits do not count these transactions as errors and claims paid can be reconciled against premiums received? How will the companies recover costs related to this problem?

A. We will work out any necessary accounting procedures to address problems and costs created by handling claims during the hiatus.

9. The FEMA memo to the NFIP Servicing Agent says that “If the premium payment for renewals, or new applications or endorsement with the accompanying premium payments are received on or before December 31, 2002, coverage can be made effective after that date under the existing authority.”

What basis in the existing statutory authority do you have for making that statement? Also, how can a WYO company explain to customers that there is continuing coverage for those who paid before January 1, 2003, while there is no coverage for those who were unable to buy or renew or pay for it before January 1, 2003?

A. The authorization for our instruction to the NFIP Servicing Agent is in 42 U.S.C. 4026, which refers to a “new contract for flood insurance under this chapter” being “entered into.” It is our interpretation that a contract is “entered into” when the renewal premium, or the premium for new business together with a completed application, is received by the company, even if the effective date is later.

10. When is payment considered “received” by December 31, 2002? Would certified mailing of the premium before January 1, 2003 be considered receipt of premium?

A. No, although the certified mailing rule applies to calculation of any waiting period, the insurer must still receive the premium payment by December 31, 2002.

11. What documentation does an agent need to give a homebuyer during the lapse in reauthorization?

A. The agent should provide the same documentation as he/she normally gives flood insurance customers for loan closings. In addition, we recommend that companies or agents provide a notice similar to “Notice 3” This notice was attached to the FEMA memos dated December 12, 2002.

12. What help can FEMA provide WYO companies in dealing with the public who have been faced with this situation and are calling their agents and companies looking for answers on the lapse in reauthorization?

A. We have issued a news release on the issue. We are also developing a Frequently Asked Questions (FAQs) paper. A copy of the ‘FAQs for Consumers’ is attached for your information and possible use.

13. How will FEMA calculate the 30-day waiting period during the hiatus?

A. The waiting period will start under the normal rules as contained in § 61.11 of 44 CFR and in the Flood Insurance Manual.

If there’s no reauthorization by Congress, within a reasonable period, then WYO companies and the NFIP’s Servicing Agent will return the premium to the payor. Then, once Congress re-authorizes the NFIP, the consumer through the insurance agent will have to resubmit the premium, subject to a new waiting period.

THESE ARE INITIAL FREQUENTLY ASKED QUESTIONS (FAQ). THIS LIST MAY BE EXPANDED.

FAQ - Consumers

1. Why can't my insurance company just issue me a flood policy? Why do we need an act of Congress?

Your insurance company issues flood policies as part of the National Flood Insurance Program (NFIP) under an arrangement with the Federal Government. The NFIP operates under authority from Congress that has to be renewed periodically. That authority to issue new policies expires at midnight on December 31, 2002 and is awaiting Congressional renewal. With the 107th Congress adjourned, reauthorization cannot be accomplished before the 108th Congress convenes in January 2003. Thus, the NFIP will experience a hiatus--a period without authority to issue new policies, issue increased coverage on existing policies, or issue renewal policies until Congress reauthorizes it.

2. How does the "hiatus" in authority for the NFIP affect me and how long will it last?

Most of the 4.4 million flood insurance policyholders nationwide will not be affected. Policies that are in force will remain in force, and claims under those policies can continue to be paid after January 1, 2003. However, during the hiatus we will not be able to issue new policies, issue increased coverage on existing policies, or issue renewal policies. Therefore, the limited interruption is of concern to property owners who need to renew policies in January, home-buyers who must purchase flood insurance as a condition for obtaining mortgages from federally regulated lenders, and property owners refinancing existing mortgages who must purchase or renew such coverage.

That said, we expect that the new Congress will re-authorize the NFIP early in the term and that they will make it retroactive to January 1, 2003. The hiatus is expected to be brief and we are doing everything we can to resolve the issue with as little disruption of insurance operations as possible. We are also working with our insurance and lending industry partners to prepare for this situation.

3. Has this lapse in Congressional authority for the NFIP ever happened before and for how long? Did Congress make the reauthorization retroactive before?

Yes, there have been several lapses in authority for the NFIP in the past, and, in each of those lapses, which ranged from days to several weeks, Congress has reauthorized the NFIP retroactively.

4. If I get my premium payment and application for a new policy in to my insurance company on or before December 31, 2002, when will I have flood insurance protection?

The starting date of such coverage depends on the applicable flood insurance waiting period. (Check with your insurance agent for the exact date when the 30-day waiting period starts.)

Even with the lapse in authority, new policies for which premium payment is received by the insurance company on or before December 31, 2002, will still be issued for coverage that will become effective after December 31. Claims for existing policies and policies issued based on premiums received prior to the hiatus, will be processed without delay.

5. What happens if my premium for a new policy or an endorsement for added coverage is received by the company on or after January 1, 2003 and I suffer a flood loss before Congress reauthorizes the Program?

We've suggested that the insurance companies hold premium payments for new or increased policies received during the hiatus. Claim payments for losses suffered during that time cannot be made until Congress retroactively extends the NFIP authority. However, your insurance company can proceed with investigating your claim under a "non-waiver" agreement, up to the point of payment. Under the "non-waiver" agreement, the company would reserve the right not to pay the claim if Congress does not reauthorize the NFIP.

6. I have a mortgage loan closing in early January, and the lender has told me I have to have flood insurance at closing. What will happen if my premium and application aren't received by my insurance company by December 31, 2002?

It is expected that your premium will be held by your insurance company in order that your policy can go into effect at the earliest date. If reauthorization to issue flood insurance policies under the NFIP is granted retroactively, your policy will be issued effective as of the date of the closing of your loan.

If Congressional reauthorization is granted retroactively, any claim for insurable losses you suffer from that effective date onward will be honored by the NFIP, even if the authority is granted after the date of such losses.

7. Can my premium be in the mail, with a postmark before January 1, 2003, in order to beat the deadline?

The controlling factor is receipt of the premium by the insurance company, not the postmark.

8. If I suffer a loss during the hiatus, even though I beat the December 31, 2002 deadline, will I be covered for my loss?

If, based on the waiting period rules of the NFIP, your coverage was in effect at the time of the date of loss, you would be covered.

9. My policy is up for renewal in January, how can I make sure that my premium payment gets in by the deadline?

If your renewal premium payment is received by your insurance company on or before December 31, 2002, your policy can be renewed.

10. What happens if my premium payment for a policy renewal is received by the company on or before December 31, 2002 and I suffer a flood loss before Congress reauthorizes the NFIP? Will I be covered?

Yes. Even during the hiatus, claims for losses occurring during the hiatus, on existing policies and on policies issued based on premiums that were received prior to the hiatus, are to be processed and paid without delay.

11. What happens if my premium payment for a policy renewal is received by the company on or after January 1, 2003 and I suffer a flood loss before Congress reauthorizes the NFIP? Will I be covered?

We've suggested that the insurance companies hold in abeyance renewal premium payment received during the hiatus. Claim payments for losses suffered during that time cannot be made until Congress retroactively extends the NFIP authority. However, your insurance company can proceed with investigating your claim under a "non-waiver" agreement, up to the point of payment. Under the "non-waiver" agreement, the company would reserve the right not to pay the claim if Congress does not reauthorize the NFIP.

12. How will I be notified when the NFIP is reauthorized?

We will announce it through the media and to all the NFIP's stakeholders—insurance companies, insurance agents, lenders, and realtors, so they can pass the information on to their customers. We will also use the FEMA web site to announce the reauthorization.

13. What happens if Congress does not make reauthorization retroactive to January 1, 2003?

Policies without a 30-day waiting period would become effective on the date the reauthorization is effective.

Policies with a 30-day waiting period would become effective when both the 30-day waiting period has ended and Congress has reauthorized the NFIP.

14. What happens if the hiatus is lengthy?

If authorization is not granted within a reasonable period of time after Congress reconvenes, premium payments will have to be refunded and we will not be able to issue the policies paid by premiums held in abeyance.